

LYON TOWNSHIP ORD. #38

Hazardous Materials

Emergency Incident Ordinance

An ordinance to establish charges for township emergency services responding to an incident involving hazardous materials under Public Act 102 of 1990 (compiled law 41.806a) and to provide methods for the collection of such charges.

Lyon Township, Roscommon County, Michigan ordains:

Section 1: Purpose: In order to protect the township from incurring extraordinary expenses resulting from the utilization of township resources to respond to an incident involving hazardous materials, the Lyon Township Board authorizes the imposition of charges to recover reasonable and actual costs incurred by the township in responding to calls for assistance in connection with a hazardous materials release.

Section 2: "Hazardous Materials" Defined: Hazardous materials means explosives, pyrotechnics, flammable compressed gas, flammable liquid, combustible liquid, oxidizing material, poisonous gas, poisonous liquid, poisonous solid, irritating material, ethnological material, radioactive material, corrosive material, or liquefied petroleum gas.

Section 3: "Release" Defined: Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing which causes damage or harm to person(s), property, natural resources, the public health or the environment.

Section 4: "Responsible Party" Defined: Any individual, firm, corporation, association, partnership, commercial entity, consortium, joint venture, government entity or any other legal entity that is responsible for a release of a hazardous material, either actual or threatened, or is an owner, tenant, occupant or party in control of property onto which or from which hazardous materials release.

Section 5: Charges Imposed Upon Responsible Party: Where the township fire department responds to a call for assistance in connection with a hazardous materials release, actual costs incurred by the township responding to such a call shall be imposed upon responsible parties, including, but not limited to:

A. \$200.00 per hour, or fraction thereof, for each pumper required, in the opinion of the officer in command, to stand by at the hazardous materials incident. For each hour, or fraction thereof, that the pumps are activated, an additional sum of \$200.00 per hour shall be charged.

- B. \$200.00 per hour, or fraction thereof, for each water tender required, in the opinion of the officer in command, to be utilized in responding to the hazardous materials incident.
- C. \$200.00 per hour, or fraction thereof, for each additional township-owned fire department vehicle required, in the opinion of the officer in command, to be utilized in responding to the hazardous materials incident.
- D. All personnel-related costs incurred by the Township as a result of responding to the hazardous materials incident. Such costs may include, but are not limited to: wages, salaries and fringe benefits and insurance for full-time and part-time firefighters; overtime pay and related fringe benefit costs for hourly employees, and fire run fees paid to on call firefighters. Such personnel-related charges shall commence after the first hour that the fire department has responded to the hazardous materials incident, and shall continue until all township personnel have concluded hazardous materials incident related responsibilities.
- E. Other expenses incurred by the township in responding to the hazardous materials incident, including but not limited to: rental or purchase of machinery, equipment, labor, or consultants, legal and engineering fees, medical and hospitalization costs, and the replacement costs related to disposable personal protective equipment, gear and equipment, extinguishing agents, supplies, water purchased from municipal water systems and meals and refreshments for personnel while responding to the hazardous materials incident.
- F. Charges to the township imposed by any local, state, or federal government entities related to the hazardous materials incident.
- G. Costs incurred in accounting for all hazardous material incident-related expenditures, including billing and collection costs.

Section 6: Billing Procedures: Following the conclusion of the hazardous materials incident, the fire chief shall submit a detailed listing of all known expenses to the township clerk, who shall prepare an invoice to the responsible party for payment. The clerk's invoice shall demand full payment within thirty (30) days of receipt of the bill. Any additional expenses that become known to the township fire chief following the transmittal of the bill to the responsible party shall be billed in the same manner on a subsequent bill to the responsible party. For any amounts due that remain unpaid after thirty (30) days, the township shall impose a late charge of two percent (2%) per month, or fraction thereof.

Section 7: Other Remedies: The township may purpose any other remedy, or may institute any appropriate action or proceeding, in a court of competent jurisdiction to collect charges imposed under this ordinance. The township shall have the right and power to add all emergency response costs to the tax roll of such property involved in the hazardous materials incident and to levy and collect such costs in the same manner as provided for the levy and collection of real property taxes against said property or premises. The recovery of charges imposed under this ordinance does not limit liability of responsible parties under local ordinances or state or federal law, rule or regulation. The payment of expenses incurred by the township under this ordinance shall not constitute an admission of guilt or responsibility under any other ordinance, law, rule or regulation.

Section 8: Severability: Should any provision or part of the within ordinance be declared by any court of competent jurisdiction to be invalid or unenforceable, the same shall not effect the validity or enforceability of the balance of this ordinance which shall remain in full force and effect.

Section 9: Effective Date: This ordinance shall take effect immediately. All ordinances or parts of ordinances in conflict are hereby repealed.

Date of Passage of Ordinance: June 12, 1996

Members Voting "Ayes": Hughes, Cottingham, Potter, Cheek, Fay.

Members Voting "Nays": None.

Review of Ordinance: A true copy of the Ordinance can be inspected or obtained at the Lyon Township Hall during normal business hours.